

1 Arizona Department of Real Estate
2 2910 North 44th Street, Suite 100
3 Phoenix, Arizona 85018
4 Telephone: (602) 771-7760
5 Facsimile: (602) 468-0562

6 **BEFORE THE ARIZONA DEPARTMENT OF REAL ESTATE**

7 In the matter of the violations of:

File No.: 08F-LI-304

8 **MARK BOSWORTH**, an unlicensed individual

**CEASE AND DESIST ORDER and
NOTICE OF RIGHT TO REQUEST
HEARING**

9 Respondent,

10 DIRECTED TO: **MARK BOSWORTH**
11 11861 E. Desert Trail Road
12 Scottsdale, Arizona 85259

13 The Commissioner of the Arizona Department of Real Estate (the "Commissioner" and
14 "Department," respectively), based upon information and belief, alleges:

15 **FINDINGS OF FACT**

16 1. Mark Bosworth is an unlicensed individual, located at 11861 E. Desert Trail Road,
17 Scottsdale, Arizona 85259.

18 2. On or about January 17, 2008, in the Superior Court of Arizona, Maricopa County
19 case number CV 2004-023197¹, *Bosworth, et al. v. Magelson, et al.*, in the Judgment and
20 Decree of Foreclosure and Order of Sale ("Judgment"), it was Ordered, Adjudged, and
21 Decreed that Defendant and Counterclaimant TEM Holdings, LLC be awarded judgment
22 against Mark Bosworth and Lisa M. Bosworth in the total amount of \$17,457,058.26 as
23 follows:

24 a. For breach of agreements for sale, judgment against Mark Bosworth and Lisa
25 Bosworth, joint and severally, in the amount of \$3,248,517.00, together with legal fees and
26 costs in the amount of \$448,880.26, and interest on the foregoing amounts at the contract
27

28 ¹ This matter involved property management activities, including the purchase and sale of investment
properties, conducted by Mark Bosworth and Lisa Bosworth on behalf of Benjamin R. Magelson, through
Property Masters of America, LLC and Mark Bosworth Residential, LLC.

1 rate of 10% per annum, compounded monthly, from November 15, 2007 until paid in full.

2 b. For breach of agreement with respect to the Ironwood property, judgment
3 against Mark Bosworth and Lisa Bosworth, joint and severally, in the amount of \$48,605.00,
4 together with taxable costs which are already included in the above part a., and interest on
5 the foregoing amounts at the legal rate of 10% per annum, compounded monthly from
6 November 15, 2007 until paid in full.

7 c. For conversion of sales proceeds, judgment against Mark Bosworth and
8 Property Masters of America, LLC, joint and severally, in the amount of \$365,000.00 for
9 actual damages, and punitive damages in the amount of \$12,125,000.00, together with
10 taxable costs already included in the above part a., and interest on the foregoing amounts at
11 the legal rate of 10% per annum, compounded monthly from November 15, 2007 until paid in
12 full.

13 d. For violation of A.R.S. §33-420 in the amount \$1,221,000.00, together with
14 attorneys fees already included in the above part a., and taxable costs already included in
15 part a., and interest on the foregoing amounts at the legal rate of 10% per annum,
16 compounded monthly from November 15, 2007 until paid in full.

17 3. On or about October 16, 2007, in the Superior Court of Arizona, Maricopa County
18 case number CV 2004-023197, *Bosworth, et al. v. Magelson, et al.*, the parties submitted a
19 Joint Pre-Trial Statement in which the parties agreed to the following uncontested material
20 fact: Magelson retained the services of Mark Bosworth and his real estate company,
21 Property Masters of America, LLC, to assist him in completing Veteran's Administration
22 foreclosure purchases.

23 4. According to the Judgment, Mark Bosworth and Property Masters of America, LLC,
24 were determined to be in violation of Counterclaimant's Sixteenth Cause of Action for
25 conversion of sales proceeds. According to the Defendants' Answer to First Amended
26 Complaint; Counterclaim; and Third-Party Complaint, filed February 8, 2006, the Sixteenth
27 Cause of Action for conversion states that Mark Bosworth and Property Masters of America,
28 LLC, converted the properties of TEM Holdings, LLC and CT Properties, LLC, including but

1 not limited to the following:

2 a. Collected sales taxes on rental payments and converted that money to their
3 own use, instead of paying it to the taxing authority.

4 b. Charged a sales tax on items including labor performed, or allegedly performed
5 by Property Masters of America, LLC, when no sales tax was due on labor.

6 c. Submitted fraudulent charges for services that were never performed or even
7 capable of performance on the subject residences.

8 d. Removed appliances and fixtures from the subject residences and converted
9 them to Property Masters of America, LLC and Mark Bosworth's own use, then charged TEM
10 Holdings, LLC for the cost of purchasing replacements.

11 e. Converted renter deposits.

12 f. Converted down payments of prospective purchasers of the subject
13 residences.

14 g. Failed to and refused to deliver the converted property to TEM Holdings, LLC
15 and CT Properties, LLC.

16 5. On or about April 21, 2006, Mark Bosworth registered Gorenter.com, L.L.C. with
17 the Arizona Corporation Commission. Mark Bosworth was the only member of
18 Gorenter.com, L.L.C. Management was reserved to the members.

19 6. Between February 1, 2007 and May 2, 2007, seven (7) property owners paid
20 Gorenter.com, L.L.C. on contracts providing for Gorenter.com, L.L.C. to perform property
21 management activities. Gorenter.com, L.L.C. also received payment from two (2) lessees on
22 rental contracts.

23 7. On or about May 15, 2007, Gorenter.com, L.L.C., adopted a resolution wherein
24 Mark Bosworth, "the sole member and manager" of Gorenter.com, L.L.C., appointed a
25 licensed broker to be a manager of Gorenter.com, L.L.C.

26 8. On or about June 14, 2007, the Department licensed Gorenter.com, L.L.C. as an
27 employing broker.

28 9. Mark Bosworth is currently on the Board of Directors of Gorenter.com, L.L.C. and

1 is acting as a consultant for that entity.

2 VIOLATIONS

3 1. The actions of Mark Bosworth constitute activity for which an Arizona real estate
4 license is required within the meaning of a real estate broker under A.R.S. §32-2101 (47) or
5 salesperson under A.R.S. §32-2101 (49) and in violation of 32-2122 (A)(1), (B), and (D), and
6 32-2165.

7 2. The actions of Mark Bosworth are not exempt from the Arizona real estate license
8 requirements pursuant to A.R.S. §32-2121 (A).

9 3. Pursuant to A.R.S. §32-2154, if it appears that any person has engaged, is
10 engaging or is preparing to engage in any act, practice or transaction that constitutes a
11 violation of Title 32, Chapter 20, the Department may issue an order directing any person to
12 cease and desist from engaging in the act, practice or transaction or doing any act in
13 furtherance of the act, to make restitution or to take appropriate affirmative action to correct
14 the conditions resulting from the act, practice or transaction.

15 CEASE AND DESIST

16 NOW, THEREFORE, the Commissioner finds Mark Bosworth has engaged in real
17 estate activities located within Arizona and not exempt from licensure; that these acts,
18 practices and transactions constitute a violation of the previously mentioned A.R.S. sections.
19 Thus, the Commissioner is issuing this Cease and Desist Order directing Mark Bosworth to
20 cease and desist from engaging in acts, practices and transactions without first complying
21 with all applicable laws and rules, pursuant to A.R.S. §§32-2154 (A) and 32-2122 (B).

22 **IT IS ORDERED** that Mark Bosworth immediately cease and desist from engaging in
23 any real estate activity, as defined by A.R.S. §32-2101 et seq., as an individual, an
24 employee, agent, officer, principal, or in any capacity whatsoever, directly or indirectly, within
25 the State of Arizona, without first complying with all applicable laws and rules.

26 **IT IS FURTHER ORDERED** that this Cease and Desist Order shall be recorded in the
27 office of each County Recorder within the State of Arizona.

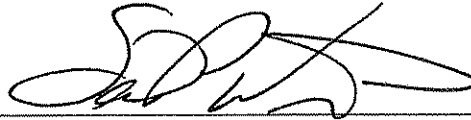
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Under A.R.S. §41-1092.05, the hearing shall be held within sixty (60) days after the Notice of Appeal is filed. Although Mark Bosworth may request the Office of Administrative Hearings to delay or advance the hearing date, such request may be approved or denied in its sole discretion. The Department of Real Estate will serve a Notice of Hearing at least thirty (30) days before the hearing, which will inform Mark Bosworth of the date, time and location of the hearing as well as further articulate the allegations being contested.

The Notice of Appeal and request for an Informal Settlement Conference should be addressed to:

Page 5

1 DATED this 3RD day of April, 2008.
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4 **SAMUEL P. WERCINSKI, Commissioner**
5 Arizona Department of Real Estate
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1 COPY of the foregoing sent by
2 CERTIFIED MAIL - RETURN RECEIPT REQUESTED
(Receipt No. 7006 0810 0003 4893 7251)

3 this 3rd day of April, 2008, to:

4 Mark Bosworth
5 11861 E. Desert Trail Road
6 Scottsdale AZ 85259
7 Respondent

8 COPY of the foregoing mailed this
9 3rd day of April, 2008 to:

10 Lynette Evans, AAG
11 Office of the Attorney General, State of Arizona
12 1275 W. Washington St.
13 Phoenix, AZ 85007
14 Attorneys for the Department

15 David R. Farney
16 Attorney at Law
17 7142 W. Kings Avenue
18 Peoria AZ 85382
19 Attorney for Mark Bosworth

20 COPY of the foregoing delivered this
21 3rd day of April, 2008 to:

22 Arizona Department of Real Estate
23 Tom Adams, Assistant Commissioner, Investigations (C07-000433, C07-
24 001290)
25 Mary Utley, Assistant Commissioner, Public Relations
26 Department Compliance Officer
27 E&C for Real Estate Bulletin

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